

**New Hartford Planning and Zoning Commission
TOWN OF NEW HARTFORD, CONNECTICUT
REGULAR MEETING MINUTES
Wednesday, December 12 2018 at 7:00 PM
New Hartford Town Hall
530 Main Street, New Hartford, Connecticut**

PRESENT: Ted Stoutenberg, Dave Krimmel, Dan LaPlante, James Steadman, Marty Post and Alternate Tom McLoughlin, Zoning Enforcement Officer Mike Lukas and Interim Zoning Enforcement Officer Rista Malanca.

ABSENT: Peter Ventre.

Chairman Ted Stoutenberg called the meeting to order at 7:00PM.

1. PUBLIC HEARINGS:

A. Castellani Family Real Estate Vent. LLC – Map 002 – Block 002 – Lot 11-6 – 906 Tarringford East Street – Re-Subdivision Application.

The legal ad for the public hearing was read into the record. It was noted as having run the requisite two times, November 30, 2018 and December 7, 2018. The receipts for the Certificate of Mailings, providing evidence that the abutting property owners were noticed about this hearing, was provided by the applicants.

Karl Neilson, representing the applicant, provided information relative to the planning of this parcel. He was accompanied by Professional Engineer Larry Edwards. Mr. Neilson explained that his clients are seeking approval to develop Lot #3, with access gained from Whitbeck Road. He noted that his clients intend to eventually propose an open space subdivision. Mr. Neilson referred to plans, depicting future lots as well as an area that will be designated as Open Space.

Mr. Edwards explained that the property is a 53-acre parcel, previously known as Lot 1. He explained that Lot #3 is a second subdivision with the previous subdivision of Lot #2, off of Evergreen. Mr. Edwards explained that Lot #3 will consist of 3.8 acres with access off of Whitbeck Road. Because his client intends to develop the remaining piece, Mr. Edwards explained that a permit was sought and received for a fifty (50') foot wide access for this lot as well as the future development. Improvements to the road, including cross culverts, will be handled as part of development for this lot in order to handle the future development, according to Mr. Edwards.

Mr. Edwards noted that the buildable area will be located east of the major wetland area, explaining that the soil testing has verified a suitable area for a septic system. He noted that public water is available through Whitbeck Road and will be brought in during this phase of construction.

Mr. Edwards reviewed the drainage for the site. He noted the 2.5 acres of the site that will be a part of the conservation easement.

Mr. Edwards indicated that the comments received by the town engineer had been addressed. Mr. Stoutenberg noted that the public hearing would be likely continued pending another review by the engineer of those revisions.

Mr. Edwards submitted the approval received from the Farmington Valley Health District.

Mr. Steadman noted that approval for a one-lot subdivision does not indicate that there is implied approval for subdivision of the remaining land.

Mr. Krimmel questioned who was responsible for the maintenance of the accessway for the proposed lot. Mr. Edwards agreed that the road will be private up and until it is accepted by the Town.

The hearing was open to the public for comment.

No comments were made.

MOTION: Mr. Krimmel, Mr. Post second, to continue the public hearing until January 9, 2019 regular meeting; unanimously approved.

B. Town of New Hartford – 530 Main Street – Review of Subdivision Regulation Changes – Town of New Hartford.

It was noted that this matter was not properly noticed. Therefore, no business was discussed.

2. PENDING APPLICATIONS:

A. Castellani Family Real Estate Vent. LLC – Map 002 – Block 002 – Lot 11-6 – 906 Tarringford East Street – Re-Subdivision Application.

No business discussed.

B. Town of New Hartford – 530 Main Street – Review of Subdivision Regulation Changes – Town of New Hartford.

No business discussed.

3. NEW APPLICATIONS:

None.

4. OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION:

A. Appointment of Alternate.

Mr. Stoutenberg reminded commissioners that Mike Misiorski, an unaffiliated voter, had been endorsed by the Democratic Town Committee as well as the Board of Selectmen.

MOTION: Mr. Stoutenberg, Mr. Post second, to appoint Mike Misiorski to fill the vacancy as an alternate to the Planning and Zoning Commission; unanimously approved.

B. Review of Zoning Regulations.

Mr. Stoutenberg reminded the Commission that fellow Commissioner Dan LaPlante had brought up the issue of Shady Brook Road Extension Subdivision at the end of the last meeting.

Attorney Mark Branse, counselor to the Commission, was present for the discussion. He explained that this subdivision has been modified at least once, but the developer had filed several revised lot dimensions with the Town Clerk without any review by this Commission. Attorney Branse noted that the Connecticut General Statutes are very clear in this regard in that no subdivision plan may be filed with the Town Clerk without the endorsement of the commission. He noted that this was done in New Hartford and as such, there are several people who own lots that are not legal lots.

Attorney Branse explained that the second component to the Shady Brook Road Extension issue is whether these lots are Zoning compliant. He explained that if the subdivision was

approved as an Estate Lot Subdivision on a private road, the minimum size for the lots is four acres. He noted that one of these lots as reconfigured is less than four acres. However, if the subdivision was not approved as an Estate Lot Subdivision, then the minimum lot size is two acres.

Attorney Branse explained that one of the questions that were discussed with Ms. Malanca was whether a private road subdivision can be approved and not be an Estate Lot Subdivision.

Ms. Malanca explained that an Estate Lot Subdivision allows a developer to build a common driveway to avoid meeting the Town Road Standards with frontage off the common driveway, but the lots must be double the lot size and by Special Exception only. Mr. Stoutenberg noted that Section 3.5(g) of the Zoning Regulations govern this.

Attorney Branse explained that in order to have a private road, it would have to be an Estate Lot Subdivision and noted that the question was whether it was applied for and approved that way. He noted that former Land Use Administrator Ruth Mulcahy opined that it was, but that Ms. Malanca did not.

Mr. Post questioned how it was approved. Mr. Stoutenberg and Attorney Branse indicated it was approved as a private road.

Ms. Malanca noted that when the application for the subdivision was submitted, approval was sought for a subdivision on a private road and not an Estate Lot Subdivision. She noted that there was a Special Exception for the one rear lot because that rear lot did not have frontage on any road. She explained that there was nothing in the file but she recalled that the land had been in the family for years, the access was a dead end and they wanted to preserve that character of a dead end, private road and not have to bring it up to Town standards. Ms. Malanca also recalled that they had originally applied for an Estate Lot Subdivision but had withdrawn that application because those regulations provide that the length of the road cannot exceed 2000 feet and their development would exceed this due to the wetlands on the site.

Ms. Malanca further noted that the original developer applied for a Subdivision on a Private Road through the Subdivision Regulations with a Special Exception for the rear lot, the last lot in the development. She explained that she did not think it was an approval granted as part of an Estate Lot Subdivision based on two reasons: 1. The application was for a Special Exception for a Rear Lot and not for an Estate Lot; and 2. The developers had requested a waiver from the Subdivision Regulations to extend a private street to 2932 feet, a waiver that the Commission approved. Ms. Malanca explained that if this had been a Zoning Regulation, the Commission would have been unable to waive it.

The rear lot, Lot #4A, was double the size as required, according to Ms. Malanca. She noted that the lot in question was Lot #3A.

Mr. Krimmel exited the meeting at 7:48PM.

Discussion ensued among the Commission.

Mr. Steadman recollected that the development unfolded as Ms. Malanca indicated.

Town Clerk Donna LaPlante noted that the practice of the Planning and Zoning Commission Chairman signing the lot line revision maps had historically not been the practice. She noted that it is now. Ms. LaPlante indicated that she had reviewed the Minutes covering these

approvals as well as having listened to the audio. She noted that all of the audio has been preserved but for the approvals by the Commission. However, during the discussion and review of the application, Estate Lots had not been mentioned.

Attorney Branse advised the Commission that they need to determine how they had approved the subdivision ten years ago based on the tapes, the minutes, and the file. He noted that if it had been approved as an Estate Lot Subdivision, that somewhere on the plans one would think it would have been referenced as such, the zoning table would reflect four acres rather than two, and/or that there would have been a Special Exception application for an Estate Lot Subdivision with a public hearing.

MOTION: Mr. Steadman, Mr. McLoughlin second, to add to the agenda Request of Alan T. Vogel, Maria Mancini and Nick Vogel for a Lot Line Revision for the Shady Brook Road Extension 50 Acres Woods Subdivision; unanimously approved.

C. Request of Alan T. Vogel, Maria Mancini and Nick Vogel for a Lot Line Revision for the Shady Brook Road Extension 50 Acres Woods Subdivision.

MOTION: Mr. Steadman, Mr. McLoughlin second, to approve the request for a lot line revision for the 50 Acres Woods Subdivision for Lots 3A and 4A as shown on the Lot Line Revision Map for Alan T. Vogel and Maria Mancini dated 2/5/2013 as attached to this motion and authorizes the Chairman or Secretary to sign the mylar; unanimously approved.

5. APPROVAL OF MINUTES: November 14, 2018

MOTION: Mr. Steadman, Mr. LaPlante second, to approve the November 14, 2018 Minutes; unanimously approved.

6. ZONING ENFORCEMENT OFFICER'S REPORT.

None.

7. CORRESPONDENCE:

None.

MOTION: Mr. Steadman, Mr. McLoughlin second, to adjourn at 8:18PM; unanimously approved.

Respectfully submitted,

Pamela A. Colombie
Recording Secretary